

**House File 587 - Introduced**

HOUSE FILE 587

BY JACOBY and SCHOLTEN

**A BILL FOR**

1 An Act relating to consumer rights to repair specified goods,  
2 and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 554G.1 Short title.

2 This chapter shall be known and may be cited as the "Iowa  
3 *Right to Repair Act*".

4 Sec. 2. NEW SECTION. 554G.2 Definitions.

5 As used in this chapter, unless the context otherwise  
6 requires:

7 1. "*Authorized repair provider*" means a person other than  
8 an original equipment manufacturer with whom the manufacturer  
9 has entered into an oral or written agreement for a definite  
10 or indefinite period, if the manufacturer grants to the  
11 person a license to use a trade name, service mark, or related  
12 characteristic for the purposes of offering repair services  
13 under the name of the manufacturer.

14 2. "*Digital electronic equipment*" means a product containing  
15 an integrated circuit, or a replacement part for use in a  
16 product containing an integrated circuit, if manufactured for  
17 distribution and sale in the United States, for installation in  
18 a home appliance, cell phone, or motor vehicle.

19 3. "*Embedded software*" means programmable instructions  
20 provided on firmware delivered with digital electronic  
21 equipment for the purposes of product operation, including  
22 all relevant patches and fixes made by the original equipment  
23 manufacturer.

24 4. "*Fair and reasonable terms*" means an equitable price in  
25 light of relevant factors, including but not limited to all of  
26 the following:

27 a. The net cost to the authorized repair provider for  
28 similar information obtained from an original equipment  
29 manufacturer, less any discounts, rebates, or other incentive  
30 programs.

31 b. The cost to an original equipment manufacturer for  
32 preparing and distributing the information, excluding  
33 any research and development costs incurred in designing,  
34 implementing, upgrading, or altering digital electronic  
35 equipment, but including amortized capital costs for the

1 preparation and distribution of the information.

2 *c.* The price charged by an original equipment manufacturer  
3 for similar information.

4 *d.* The price charged by an original equipment manufacturer  
5 for similar information prior to the launch of a manufacturer's  
6 internet site.

7 *e.* The ability of aftermarket technicians or shops to afford  
8 the information.

9 *f.* The means by which the information is distributed.

10 *g.* The extent to which the information is used, including  
11 the number of users, and the frequency, duration, and volume  
12 of use.

13 *h.* Inflation.

14 5. "*Firmware*" means a software program or set of  
15 instructions programmed on a hardware device to allow the  
16 device to communicate with other computer hardware.

17 6. "*Hand-held electronic communication device*" means a mobile  
18 telephone or other portable electronic communication device  
19 capable of being used to write, send, or view an electronic  
20 message.

21 7. "*Home appliance*" means a machine which assists in  
22 household functions such as cooking, cleaning, and food  
23 preservation, including major appliances and consumer  
24 electronics.

25 8. *a.* "*Independent repair provider*" means a person  
26 operating a business in this state, if all of the following  
27 apply:

28 (1) The business is engaged in the diagnosis, service,  
29 maintenance, or repair of digital electronic equipment.

30 (2) The business is not affiliated with an original  
31 equipment manufacturer or the authorized repair provider of a  
32 manufacturer.

33 *b.* "*Independent repair provider*" does not include an  
34 original equipment manufacturer engaged in the diagnosis,  
35 service, maintenance, or repair of digital electronic equipment

1 that is not affiliated with the manufacturer.

2 9. "*Interest holder*" means a consumer who holds a legal  
3 interest in digital electronic equipment, including as an  
4 owner, lessee, or licensee.

5 10. "*Motor vehicle*" means any self-propelled vehicle subject  
6 to registration under chapter 321.

7 11. "*Original equipment manufacturer*" or "*manufacturer*" means  
8 a person who, in the ordinary course of business, is engaged in  
9 the business of doing all of the following:

10 a. Selling or leasing new digital electronic equipment,  
11 including replacement parts of equipment, to a consumer.

12 b. Diagnosing, servicing, maintaining, or repairing digital  
13 electronic equipment, including parts of such equipment.

14 12. a. "*Replacement part*" means any new or used tangible  
15 personal property made available by an original equipment  
16 manufacturer to an authorized repair provider for purposes of  
17 effecting a repair.

18 b. "*Replacement part*" includes a component of digital  
19 electronic equipment that performs the same or similar function  
20 as the component being replaced and that restores digital  
21 electronic equipment to an operational condition or improves  
22 the efficiency or capability of digital electronic equipment.

23 13. "*Trade secret*" means anything tangible or intangible  
24 or electronically stored or kept which constitutes,  
25 represents, evidences, or records intellectual property,  
26 including secret or confidentially held designs, processes,  
27 procedures, formulas, inventions, or improvements, or secret  
28 or confidentially held scientific, technical, merchandising,  
29 production, financial, business, or management information, or  
30 any other trade secret as defined in 18 U.S.C. §1839.

31 Sec. 3. NEW SECTION. 554G.3 Requirements.

32 1. An original equipment manufacturer of a hand-held  
33 electronic communication device, home appliance, or motor  
34 vehicle shall make diagnostic and repair information, including  
35 repair technical updates and embedded software updates and

1 corrections, available to any independent repair provider or  
2 interest holder of digital electronic equipment manufactured by  
3 an original equipment manufacturer for no charge or in the same  
4 manner as the manufacturer makes such diagnostic and repair  
5 information available to authorized repair providers after the  
6 hand-held electronic communication device, home appliance, or  
7 motor vehicle is six years old.

8 2. An original equipment manufacturer that sells any  
9 diagnostic and repair information to any independent repair  
10 provider or to any interest holder in a format that is  
11 standardized with other original equipment manufacturers, and  
12 on terms and conditions more favorable than the manner and the  
13 terms and conditions pursuant to which the authorized repair  
14 provider obtains the same diagnostic and repair information,  
15 shall not require an authorized repair provider or interest  
16 holder to continue purchasing diagnostic and repair information  
17 in a proprietary format, unless such proprietary format  
18 includes diagnostic and repair information or functionality  
19 that is not available in such standardized format.

20 3. An original equipment manufacturer of digital electronic  
21 equipment sold or used in this state shall make available  
22 for purchase by independent repair providers and interest  
23 holders, after a hand-held electronic communication device,  
24 home appliance, or motor vehicle is six years or older, all  
25 diagnostic repair tools incorporating the same diagnostic,  
26 repair, and remote communications capabilities that the  
27 original equipment manufacturer makes available to the  
28 repair or engineering personnel employed by the original  
29 equipment manufacturer or to any authorized repair provider.  
30 An original equipment manufacturer shall offer such tools  
31 for sale to any independent repair provider or interest  
32 holder upon fair and reasonable terms. An original equipment  
33 manufacturer that provides diagnostic repair information  
34 to aftermarket diagnostic tool manufacturers, diagnostics  
35 providers, or service information publications and systems

1 shall not be responsible for the content and functionality of  
2 such aftermarket diagnostic tools, diagnostics, or service  
3 information systems.

4 4. Digital electronic equipment sold or used in this  
5 state for the purpose of providing security-related functions  
6 shall not exclude diagnostic and repair information necessary  
7 to reset a security-related electronic function from the  
8 information provided to an independent repair provider or an  
9 interest holder. Information necessary to reset an immobilizer  
10 system or other security-related electronic module shall be  
11 obtained by an independent repair provider interest holder or  
12 through the appropriate secure data release systems of the  
13 original equipment manufacturer.

14 Sec. 4. NEW SECTION. 554G.4 **Applicability.**

15 This chapter does not require an original equipment  
16 manufacturer to sell replacement parts if the replacement parts  
17 are no longer available to the manufacturer or an authorized  
18 repair provider of the manufacturer.

19 Sec. 5. NEW SECTION. 554G.5 **Statutory construction.**

20 This chapter shall not be construed to do any of the  
21 following:

22 1. Require an original equipment manufacturer to divulge a  
23 trade secret.

24 2. Abrogate, interfere with, contradict or alter the terms  
25 of any agreement executed and in effect between an authorized  
26 repair provider and an original equipment manufacturer,  
27 including but not limited to the performance or provision of  
28 warranty or recall repair work by an authorized repair provider  
29 on behalf of a manufacturer pursuant to such agreement.

30 3. Require an original equipment manufacturer or an  
31 authorized repair provider to provide an interest holder or  
32 independent repair provider access to nondiagnostic and repair  
33 information provided by a manufacturer to an authorized repair  
34 provider pursuant to the terms of an agreement.

35 Sec. 6. NEW SECTION. 554G.6 **Rulemaking authority.**

1 1. The attorney general shall adopt rules under chapter 17A  
2 and forms as necessary to implement this chapter.

3 2. In prescribing rules and forms under this chapter, the  
4 attorney general may cooperate with agencies that perform  
5 similar functions in other states with a view to effectuating  
6 the policy of this chapter to achieve maximum uniformity in the  
7 form and content of certification, regulation, and procedural  
8 evaluation of manufacturer-established programs, required  
9 recordkeeping, required reporting wherever practicable, and  
10 required notices to consumers.

11 **Sec. 7. NEW SECTION. 554G.7 Subpoenas.**

12 The attorney general may enforce and ensure compliance with  
13 the provisions of this chapter and rules adopted pursuant to  
14 section 554G.6, may issue subpoenas requiring the attendance  
15 of witnesses and the production of evidence, and may petition  
16 any court having jurisdiction to compel compliance with the  
17 subpoenas.

18 **Sec. 8. NEW SECTION. 554G.8 Certain provisions in**  
19 **agreements void.**

20 1. A provision in an agreement entered into by a consumer  
21 that waives, limits, or disclaims the rights set forth in this  
22 chapter is void as contrary to public policy.

23 2. A provision in an agreement that waives, voids,  
24 restricts, or limits an original equipment manufacturer's  
25 compliance with this chapter shall be void and unenforceable.

26 **Sec. 9. NEW SECTION. 554G.9 Unfair or deceptive trade**  
27 **practice.**

28 An original equipment manufacturer who violates this chapter  
29 commits an unfair or deceptive trade practice as provided in  
30 section 714.16, subsection 2, paragraph "a".

31 **EXPLANATION**

32 The inclusion of this explanation does not constitute agreement with  
33 the explanation's substance by the members of the general assembly.

34 This bill creates the "Iowa Right to Repair Act" that  
35 restricts certain practices by an original equipment

1 manufacturer of digital electronic equipment that is part of  
2 a hand-held electronic communication device, home appliance,  
3 or motor vehicle that is six years old and subject to repair by  
4 the manufacturer, an authorized repair provider affiliated with  
5 the manufacturer, an independent repair provider, or a person  
6 who holds a legal interest in the equipment.

7 The bill provides that a manufacturer must make certain  
8 information available to an independent repair provider or  
9 a person holding a legal interest in the digital electronic  
10 equipment, including diagnostic and repair information. The  
11 manufacturer must also provide diagnostic repair tools to  
12 an independent repair provider or a person holding a legal  
13 interest in the digital electronic equipment, in the same  
14 manner as provided to an authorized repair provider. The sales  
15 terms must be fair and reasonable as defined in the bill. The  
16 bill provides that a manufacturer is not required to provide  
17 replacement parts if no longer available to the manufacturer or  
18 an authorized repair provider. The bill cannot be applied to  
19 require a manufacturer to divulge a trade secret or abrogate  
20 warranty provisions. A provision in an agreement that is  
21 entered into by a consumer that waives a right provided in the  
22 Code chapter is void.

23 The attorney general is responsible for enforcing the  
24 provisions of the bill and is required to adopt rules necessary  
25 to implement the bill's provisions. A violation of the bill  
26 by a manufacturer is considered an unfair or deceptive trade  
27 practice. The attorney general may bring a civil action  
28 against the manufacturer, including by seeking injunctive  
29 relief, or asking a court to impose a civil penalty not to  
30 exceed \$40,000 per violation.